

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

THERESA VICTORY,	:	
ALICE VELAZQUEZ-DIAZ,	:	
and all others similarly situated,	:	CIVIL ACTION NO. 18-05170
Plaintiffs,	:	
	:	
v.	:	Judge Mark A. Kearney
BERKS COUNTY, <i>et al.</i>	:	
Defendants.	:	

PLAINTIFFS' RESPONSE TO DEFENDANTS' AMENDED NOTICE

Less than a business day before trial, Defendants have informed this Court and the parties of a material change to the housing plan at Berks County Jail. (*See* ECF Doc. No. 307). We expect Defendants to argue that this material change has significance to the prospective relief phase of the trial scheduled, and the 11th hour nature of this announcement appears to be nothing more than a blatant attempt to prejudice Plaintiffs.

As an initial matter, Plaintiffs are entitled to additional discovery into the legality, scope, and impact of this material change. For example, Plaintiffs are entitled to discovery on how and why the decision was made—whether by “vote” as suggested in the original Notice (ECF Doc. No. 306) or by “decision” as suggested in the Amended Notice (ECF Doc. No. 307)—as well as discovery into the specifics of the change, whether it redresses the constitutional violations and is sufficiently binding to prevent a reoccurrence, or whether it raises additional concerns.

Plaintiffs do not believe this material change impacts the jury phases of the proceedings, and respectfully suggest that the jury phases of the case should proceed as scheduled beginning the morning of Tuesday, November 12, 2019. At that time, Plaintiffs suggest the parties can discuss with the Court whether an adjournment of the prospective relief phase is needed to properly discover, evaluate, and respond to this new housing plan.

Respectfully submitted,

/s/ Matthew A. Feldman

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DATE: November 8, 2019

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CERTIFICATE OF SERVICE

I, Matthew A. Feldman, hereby certify that on November 8, 2019, I caused to be served a true and correct copy of Plaintiffs' Response to Defendants' Amended Notice upon the following via ECF:

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